

Rockport Board of Appeals
May 28, 2013, 2013
7:30 P.M.
Rockport Public Library
17 School Street, Rockport, MA

- 1) Call to order at 7:30 P.M. Members present John N. Rees (Chairing), Tacy D. San Antonio, Alan Battistelli, Charles W. Christopher, Peter Bergholtz, Lars-Erik Wiberg, Michael Bace, Frederick Frithsen and Joyce Fossa.
- 2) Hearing of Anthony D. Vorias, Sr. for a special permit and/or variance to vertically extend an existing elevator shaft in the non-conforming, dwelling at 79 Main Street, Rockport.
 - a) Opened 7:30 P.M. Closed 7:38 P.M.
 - b) Members of the Board sitting are Joyce Fossa (Presiding), Tacy San Antonio, Lars-Erik Wiberg, Frederick Frithsen and Michael Bace.
 - c) Materials presented: general plan, site plan, floor plan, elevations and photographs.
 - d) Anthony Vorias Jr. of 1 Spring Lane, Rockport and Erich Griebing of Plum Island Architects, 9 Melody Lane, Newbury, MA 01951(responsible for drawings in package) represented the petitioner. They also submitted a letter from Mr. Vorias's physician Allan E. Pineda MD stating that the elevator is a medical necessity for Mr. Vorias.
 - i) The elevator is buried within the building and not visible from street as it is within deck construction.
 - ii) If you look at the A3 rendering you can see the elevation comparison to the existing roofline of about 28 feet.
 - iii) The elevator will serve three floors and exit onto the deck.
 - iv) It does not go down to ground floor.
 - v) They have met with the Rockport Historic Commission, but haven't heard back from them yet.
 - e) There was no audience participation.
- 3) Hearing of Carl E. Gardner, Jr., Trustee (Woodridge Realty Trust) for a special permit and/or variance to reduce front setback to allow construction of a future one family home at 14 Holbrook Court, Rockport.
 - a) Opened 7:40 P.M. Closed 8:13 P.M.
 - b) Members of the Board sitting are Alan Battistelli (presiding), Peter Bergholtz, Charles W. Christopher, Tacy San Antonio and John N. Rees.
 - c) Materials presented: general plan, site plan, floor plan, elevations and photographs.
 - d) Carl Gardner, 9 Woods Lane, Ipswich, MA would like to build a one family dwelling on the lot at 14 Holbrook Court on the lot that has 60 feet of frontage and is 10,018 square feet in size.
 - e) The new home must be built within 7 Feet of the public way because of the slope, drainage and soil of the lot.
 - i) This will still set the house back farther than the average of most houses in the area.
 - ii) Allows it to conform to the best building area of the lot to allow for sufficient drainage and staying away from the 20-foot setback from the No Disturb zone of the vegetated wetlands.

- iii) One copy of the wetland was presented and stamped in by the Chairman. The petitioner will supply 2 more copies for the files tomorrow.
 - f) Petitioner is presently working to get the plans accepted by the Conservation Commission.
 - g) The top of the foundation will be 4 feet below street level.
 - h) Tom Budrow of 37 Prospect Street, Rockport spoke in support of this petition.
 - i) Mr. Gardner stated that the sewer pipes laid in the back of the lot has caused the wetland vegetation to climb higher into the lot. Taxes have been paid on this property as a buildable lot since the 50's.
 - j) The Board Panel recognized that the excavation and construction so close to the road would require a Special Permit.
- 4) Hearing of Kathleen Starr for a special permit and/or variance to construct a sunroom and deck on non-conforming building at 8 Parker Street, Rockport.
- a) Opened 8:14 P.M. Continued to the Board's June Meeting.
 - b) Members of the Board sitting are Peter Bergholtz (presiding), John N. Rees, Lars-Erik Wiberg, Frederick Frithsen and Michael Bace.
 - c) Materials presented: general plan, site plan, floor plan, elevations and photographs.
 - d) Kathleen Starr of 8 Parker Street said that her house lacks a second egress from the rear. She would like to build the second egress from the bedroom to the rear deck and back yard.
 - e) Peter mentioned that the deck size would create a second new non-conformity and would make a Variance necessary.
 - f) Kathleen Starr did not know this when the plans were drawn so asked for a continuance so that she could change the plans to remove the second new non-conformity and therefore not need a Variance.
 - g) The continuance was granted and the necessary form was filled out and signed by the Chairman and petitioner.
- 5) Hearing of Francis McCormick, Jr. for a special use permit to ratify use of property as 4 residential units on non-conforming property at 70 Main Street/ 17 Highland Street, Rockport.
- a) Opened 8:30 P.M. Closed 8:37 P.M.
 - b) Members of the Board sitting are Charles W. Christopher (presiding), Peter Bergholtz, Tacy San Antonio, Alan Battistelli and Joyce Fossa.
 - c) Materials presented: general plan, site plan, floor plan, elevations and photographs.
 - d) Attorney Wilhelmina Sheedy, 76 Main Street, Rockport represented the petitioner.
 - i) Petitioner recently purchased the property at 70 Main Street and the house in the rear on 17 Highland. The front house is a single-family residence and the rear house is a 3-family residence.
 - ii) The kitchens and bathroom are dated as shown in the pictures provided.
 - iii) There are 10 parking spaces on the lot.
 - iv) The rear building is 6,015 square feet/
 - v) The total of 4 units include the 2 buildings.
 - vi) All units have 2 means of egress.
 - e) Charles W. Christopher asked if units have been occupied since the 50's.
 - f) The previous owner assured the new owner that they had been.
 - g) No audience participation.

- 6) Hearing of Dr. Sarah A. Kent (133 Granite Street, Rockport) for an Appeal pursuant to G.L. 40A, § 8 for a decision dated April 13, 2013 by Town of Rockport Inspector of Buildings on property at 129 Granite Street, Rockport.
 - a) Opened 8:39 P.M. Closed 8:57 P.M.
 - b) Members of the Board sitting are Tacy San Antonio (presiding), Charles W. Christopher, John N. Rees, Lars-Erik Wiberg and Frederick Frithsen.
 - c) Materials presented: general plan, site plan, floor plan, elevations and photographs.
 - d) Dr. Sarah Kent and Greg Blaha of 133 Granite Street asked that the Demolition Permit issued for 129 Granite Street is revoked and that demolition cease until a site plan review has been accepted.
 - e) A memo from the Building Inspector dated May 23, 2013 was read to the Board stating why the demolition permit was issued and why it should not be revoked. The memo was filed in the case folder.
 - f) The petitioners spoke in response to the memo.
 - i) Demolition is a part of the site plan review and shouldn't be allowed until the review is passed.
 - ii) The petitioner is requesting that all demolition stop until the site plan review has passed.
 - iii) Demolition is a part of the total plan and not a separate entity. You must look at the cumulative effect. It is part of a whole and not set alone.
 - g) Ron Roma owner of 129 Granite Street said:
 - i) That he ran the demolition by the Planning Board that is not here opposing it.
 - ii) There are no holds presently on the Demolition Permit.
 - iii) The footprint of the proposed structure is 5,200 square feet.
 - iv) The permit is to demo three buildings on the property.
- 7) Discussion of Petitions
 - a) Anthony D. Vorias
 - i) Lars-Erik Wiberg commented that the elevator is presently two story and going to three story.
 - ii) Michael Bace moved to approve the petition. Frederick Frithsen seconded.
 - iii) The motion passed unanimously with Joyce Fossa, Alan Battistelli, Lars-Erik Wiberg, Frederick Frithsen and Michael Bace voting.
 - b) Carl E. Gardner, Jr.
 - i) Alan Battistelli commented that the topography and No-Building Zone are hardships that justify a Variance. It is in keeping with the neighborhood.
 - ii) Charles W. Christopher moved to grant the Variance for the position of the structure and a Special Permit for excavation within twenty feet of the street. Peter Bergholtz seconded.
 - iii) The motion passed unanimously with Alan Battistelli, Peter Bergholtz, Charles W. Christopher, Tacy San Antonio and John N. Rees voting.
 - c) Kathleen Starr was continued to the June Meeting of the Board.
 - d) Francis McCormick, Jr.
 - i) The plan showed three old kitchens. This would make it official for Paul Orlando and the new owner.
 - ii) Joyce Fossa moved to ratify this as four residential units. Alan Battistelli seconded.

- iii) It passed unanimously with Charles W. Christopher, Peter Bergholtz, Tacy San Antonio, Alan Battistelli and Joyce Fossa voting.
- e) Dr. Sarah Kent
 - i) Lars-Erik Wiberg feels that demolition is separate from a site plan review and he was on the Planning Board.
 - ii) Charles W. Christopher contacted the Essex Heritage about demolition and they had no regulatory power.
 - iii) If demolition does not instigate a Site Plan Review it can be done without a Site Plan Review.
 - iv) Charles W. Christopher moved to deny the appeal for a stay of demolition and uphold the decision of the Building Inspector to issue the Demolition Permit. Lars-Erik Wiberg seconded.
 - v) It passed unanimously with Tacy San Antonio, Charles W. Christopher, John N. Rees, Lars-Erik Wiberg and Frederick Frithsen voting.
- 8) Approval of Minutes
 - a) Alan Battistelli moved to approve the minutes of the April 2013 meeting with the minor typos corrected. Tacy San Antonio seconded.
 - b) It passed unanimously with John N. Rees, Tacy D. San Antonio, Alan Battistelli, Charles W. Christopher, Peter Bergholtz, Lars-Erik Wiberg, Michael Bace, Frederick Frithsen and Joyce Fossa voting.
- 9) Old Business 8 Summit Avenue
 - a) John N. Rees checked with the Water Department and there are no water issues with the property. He also went to the Police Department and there are no traffic problems.
 - b) There are a number of two-family homes in the neighborhood.
 - c) The objections that were voiced at the hearing didn't seem to work out.
 - d) John N. Rees asked that the Board deny the petition without prejudice.
 - e) Alan moved to reconsider the decision and Charles W. Christopher seconded. It passed unanimously with Peter Bergholtz, Charles W. Christopher, Tacy San Antonio, John N. Rees and Alan Battistelli voting.
 - f) Peter Bergholtz moved to deny the petition without prejudice. Alan Battistelli seconded and it passed unanimously with Peter Bergholtz, Charles W. Christopher, Tacy San Antonio, John N. Rees and Alan Battistelli voting.
- 10) New Business
 - a) Reappointments: Associate members and Zoning Administrators
 - i) Charles W. Christopher moved to appoint Lars-Erik Wiberg, Joyce Fossa and Michael Bace as Associate Members. Peter Bergholtz seconded and it passed unanimously with John N. Rees (Chairing), Tacy D. San Antonio, Alan Battistelli, Charles W. Christopher and Peter Bergholtz voting.
 - ii) Michael Bace moved to appoint Charles W. Christopher and John N. Rees as Zoning Administrators. Peter seconded and it passed unanimously with John N. Rees, Tacy D. San Antonio, Alan Battistelli, Charles W. Christopher, Peter Bergholtz, Lars-Erik Wiberg, Michael Bace, Frederick Frithsen and Joyce Fossa voting.
 - b) Bylaw Section VI.B Raising of Certain Animals.
 - i) There was a discussion of how to reword this section to handle situations with horses and donkeys.
 - ii) Board decided that the Planning Board should handle the problem.

- iii) The Chairman will notify the Planning Board of the issue and ask that it be reexamined.
- c) Application Process – Special Meeting to discuss ways and means of streamlining and error reduction.
 - i) John N. Rees moved that the June Meeting start at 7:00 P.M. in order to discuss means of streamlining the application process.
 - ii) Charles W. Christopher seconded and the motion passed unanimously with John N. Rees, Tacy D. San Antonio, Alan Battistelli, Charles W. Christopher, Peter Bergholtz, Lars-Erik Wiberg, Michael Bace, Frederick Frithsen and Joyce Fossa voting.
- 11) Next Possible Meeting June 25, 2013 at 7:00 P.M.
- 12) Motion to adjourn made by Alan Battistelli and seconded by Charles W. Christopher. It passed unanimously with John N. Rees, Tacy D. San Antonio, Alan Battistelli, Charles W. Christopher, Peter Bergholtz, Lars-Erik Wiberg, Michael Bace, Frederick Frithsen and Joyce Fossa voting. Adjournment at 10:02 P.M.